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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,406	01/09/2007	Peter Konhauser	8009-88185	3577
42798	7590	08/03/2010	EXAMINER	
FITCH, EVEN, TABIN & FLANNERY			LOUIE, WAE LENNY	
P. O. BOX 18415				
WASHINGTON, DC 20036			ART UNIT	PAPER NUMBER
			3661	
			MAIL DATE	DELIVERY MODE
			08/03/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/583,406	KONHAUSER ET AL.
	Examiner	Art Unit
	WAE LOUIE	3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 June 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-21 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 6/20/2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/20/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-2, 3, 8, 13-14, 17-18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 directs to a device that can or cannot turn off using a switch-off command, can or cannot be activated as a function of the danger alarm and the driver assistance apparatus can or cannot be activated in conjunction with the danger alarm. Examiner is unsure about the scope of the claims and what exactly applicant wants to claim. Appropriate correction is required to further clarify the scope of the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rashid (5,905,457).

Regarding applicant claims 1, 2, 12, 17-18, 20, Rashid discloses a driving assistance apparatus and method for cruise control for a vehicle **having receiving**

means for reception, which is transmitted without the use of wires at least outside the vehicle which is formed by transmitting/receiving device in the vehicle (abstract, “vehicle radar safety apparatus... transmit a radar wave”)

wherein the driving assistance apparatus is designed for self-deactivation as a function of the reception and cannot be activated as a function of the reception characterized in that the driving assistance apparatus is designed for self-deactivation and cannot be activated in conjunction with the danger alarm as a function of a current speed of travel of the vehicle (abstract, “output from the signal processing unit is optionally applied to an accelerator and brake control circuit to automatically slow down the vehicle”, col. 3, lines 20-col. 4 lines 26, “the vehicle radar safety apparatus also includes the speed control means generating a signal in response to the first output from the signal processing means for deactivating the automatic cruise control”; “distance threshold”).

Rashid is silent concerning the reception of a “**danger alarm**” but does teach the use of radar which provides a transmission and reception without the use of wires to determine necessary distance and speed information for the processor to deactivate cruise control. It would have been obvious to one of ordinary skill in the art to utilize the wireless aspect of the radar of Rashid to provide a danger alarm since they perform similar tasks in alerting the processor whether or not the cruise control needs to be deactivated.

Regarding applicant claim 3-11, 13, again Rashid is silent concerning the reception of a “**danger alarm**” but does teach the use of radar which provides a

transmission and reception without the use of wires to determine necessary distance and speed information for the processor to deactivate cruise control. It would have been obvious to one of ordinary skill in the art to utilize the wireless aspect of the radar of Rashid to provide a necessary alarm since they perform similar tasks in alerting the processor whether or not the cruise control needs to be deactivated.

Regarding applicant claims 14-15, 19 traction control apparatus and/or motor or engine control apparatus for a traction motor or engine in the vehicle ("existing road conditions whether wet, dry or icy is also a factor in the computation of the safe operating distance of the vehicle and is input to the radar control apparatus via a switch mounted on the operator console")

Regarding applicant claim 16, 21, Rashid does not claim a vehicle but it would have been obvious to one of ordinary skill in the art at the time of invention to combine the cruise control deactivation device with a vehicle since the cruise control device would not work without being installed on a vehicle platform.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WAE LOUIE whose telephone number is (571)272-5195. The examiner can normally be reached on M-F 0700-1530.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wae Louie/
Examiner, Art Unit 3661

/Thomas G. Black/
Supervisory Patent Examiner, Art Unit 3661